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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/748,485 | 12/30/2003 | Jon Arthur Roepke | 9D-HL-25191 | 8742 |

7590 10/01/2009
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| EXAMINER |
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RIGGLEMAN, JASON PAUL

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| ART UNIT | PAPER NUMBER |
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1792

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| MAIL DATE | DELIVERY MODE |
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10/01/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|---------------------------------------|--------------------------------------|--|
| Office Action Summary | Application No. 10/748,485 | Applicant(s) ROEPKE ET AL. | |
| | Examiner JASON P. RIGGLEMAN | Art Unit 1792 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 September 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-7 and 9-26 is/are pending in the application.
- 4a) Of the above claim(s) 13-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-7, 9-12, and 25-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/1/2009 has been entered.

Status of Claims

2. Applicant's request for reconsideration, filed 9/1/2009, is acknowledged. Current pending claims are 1, 3-7, and 9-26. Claims 13-24 are withdrawn from examination. Claims 2 and 8 are cancelled. Claims 1, 4-7, 10-12 and 25 are amended.

Response to Amendment

3. Applicant's arguments with respect to claims 1, 3-7, 9-12, and 25-26 have been considered. The applicant argues that Je teaches addition of diluted additive and Olding teaches addition of undiluted additive and by implication that modification of Je by Olding teaches away and would change the principle of operation of Je.

4. Examiner states that it should be noted that machine translation of Je states "the through-hole (68) is formed and it is more desirable, the bleaching agent and softening agent are dropped into the intervening space of the washing tub and water tank"; therefore, Je teaches placement of the diluted additive into the annular space between the tub and drum. The applicant has failed to show any criticality of the placement of a hose (conduit tube). The Olding reference was cited to illustrate the obviousness of using a conduit to precisely position the output of the conduit

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tube; however, the applicant has not shown any evidence of criticality in the placement of the conduit tube and it has been held that an obvious choice in design, absent any showing of criticality, is not patentable (*In re Kuhle* 188 USPQ 7).

5. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

6. The arguments are not persuasive. The rejections are maintained (unless amended below to correct resolve typographical issues). Also, the grounds of rejection of the claims have been changed to incorporate Huttemann (UK Patent Application Publication No. GB4043158).

Remarks

7. For purposes of examination, "top cover" in claim 1 is assumed to be the top cover 54 of the washing machine described in the applicant's specification, paragraph [0022], Fig. 3. This assumption was confirmed as correct in the applicant's reply filed on 3/19/2007.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

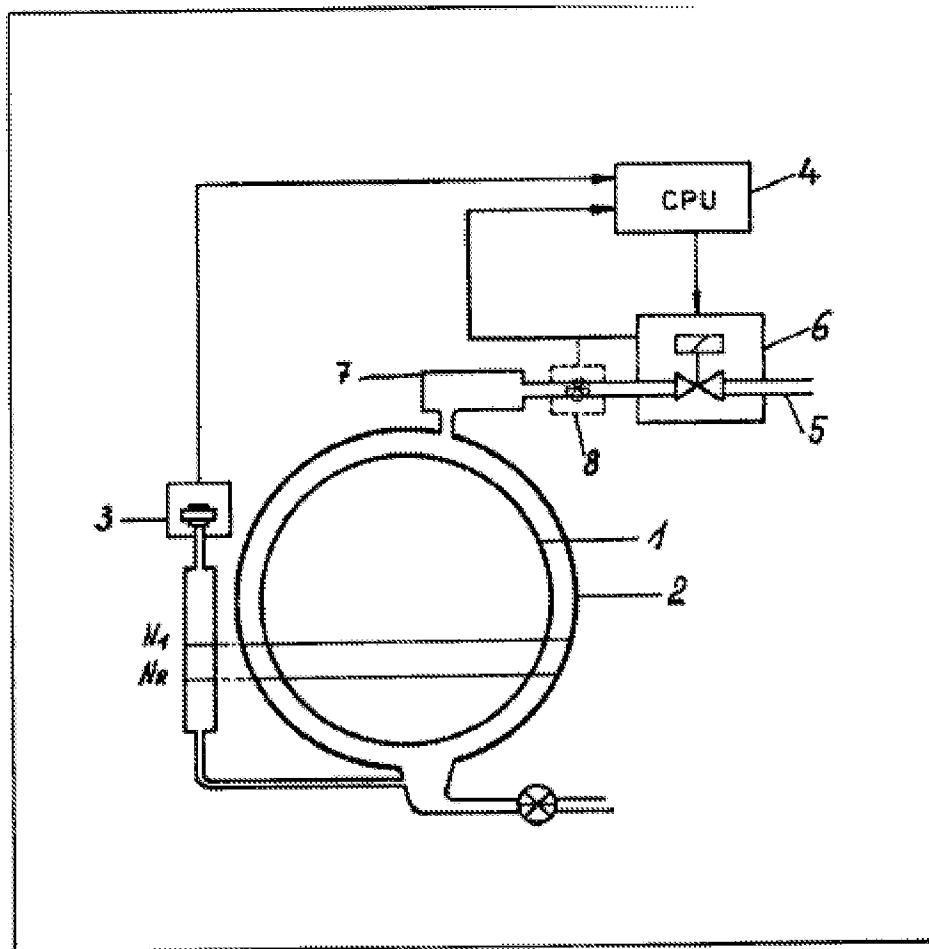
9. Claims 1, 3-7, 9-12, and 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Je (Korean Publication No. KR2003055965) in view of Huttemann (UK Patent Application Publication No. GB4043158) and further in view of Olding (US Patent No. 3118297)

10. Je teaches an additive dispensing system for a washing machine 1 including a tub 5, for holding wash liquid, and a basket 6, for holding articles to be washed. The additive dispensing system includes a top cover 30. A reservoir 40 is removably coupled to the top cover 30 and is configured to contain an additive, Fig. 2. A plurality of tabs 37 extend from the top cover 30, Fig. 4. The plurality of tabs engage a top cover 20 of the washing machine 1 to couple the reservoir cover 30 to the top cover 20. An opening 33 is present in the reservoir cover 30 and an opening is present the top cover 20, Fig. 3 which remains after assembly of the two components. An annular space is defined between the tub and basket, Fig. 1. The reservoir is emptied by a siphon tube (siphon pipe 43). The reservoir includes a removable cover coupled the top cover 20 and the conduit comprises a siphon -- siphon cap 50 and siphon pipe 43, Fig. 8. The reservoir includes an overflow port 48. The top cover includes an opening there through, with the opening in fluid communication with said reservoir for introducing the additive into said reservoir. The siphon tube empties through the pass station 65 and through a through-hole 68 to be dropped into the intervening space of the washing tub and water tank (English Machine translation of Je (Korean Publication No. KR2003055965). The water supply mouths (49, 49)' supply the water to the reservoir (and hence diluted additive to the basket) at a predetermined time, pgs. 3-4, of KIPO machine translation of KR2003055965.

11. Je does not teach a controller configured to control a water valve and that the valve dispenses during a selected wash of a plurality of wash cycles; however, it has been held that an

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obvious choice in design is not patentable (*In re Kuhle*, 188 USPQ 7). Je teaches that the water is added at a predetermined time set up by the user. The supplying of the water to the dispenser causes the diluted additive to be added to the basket. When water is provided, when combined the siphoning phenomenon would occur to flush the chamber. It would be obvious (if not inherent) to utilize valves to control the water flow and a controller to control the timing of the operation of the valves to correspond to multiple wash cycles. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Je to create a washing machine with a programmed control of additive dispensing to achieve the expected result. Note: support for the pervasiveness and obvious of the use of programmable controllers is provided by Tessarolo (UK Patent Application GB2001454) which teaches a controller which operates electrical valves (Line 124) . Further, Huttemann (UK Patent Application Publication No. GB4043158) teaches a washing machine controller in which the valve is controlled to open/shut at predetermined times to supply water to a detergent box (see entire document). The water is necessarily provided, when combined with Je, such that the siphoning phenomenon would occur to flush the chamber.



12. Je, as modified above, does not teach a conduit extending into the annular space defined between the tub and basket (such that the diluted additive is not directly added to the articles within the basket); however, Olding teaches a conduit 86 which extends into the annular space between a basket and tub, Fig. 3. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Je, as modified above, with Olding, to create a washing machine dispenser which injects diluted agent at a specific location in the space between the tub and basket to achieve the expected result. Further, it has been held that an obvious choice in design, absent any showing of criticality, is not patentable (*In re Kuhle*, 188 USPQ 7). Applicant has not shown any evidence of criticality in the placement of the conduit.

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13. In regards to claims 4 and 10, Je, as modified above, as modified by Olding, does not teach a siphon tube coupled to the removable (reservoir) cover; however, it has been held that an making elements integral would have been obvious (*In re Wolfe* 116 USPQ 443). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Je, as modified above as modified by Olding, to make the siphon caps integral with the removable cover to achieve the expected result of stably positioning of the siphon caps on top of the siphon pipes.

Conclusion

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JASON P. RIGGLEMAN whose telephone number is (571)272-5935. The examiner can normally be reached on M-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on 571-272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Jason P Riggleman
Examiner
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